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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/732,299	12/08/2000	Nicholas Broeders	CAN168/JTN	2667

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EXAMINER

LITHGOW, THOMAS M

ART UNIT	PAPER NUMBER
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1724

DATE MAILED: 10/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/732,299

Applicant(s)

BROEDERS ET AL.

Examiner

Thomas M. Lithgow

Art Unit

1724

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 08 July 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-7, 9-20 and 31-36 is/are pending in the application.
- 4a) Of the above claim(s) none is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7, 9-20 and 31-36 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.


### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 May 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☒ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.



THOMAS M. LITHGOW  
PRIMARY EXAMINER

GROUP 17.00

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 14 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 14 is dependent from claims 2,9 and 11. However, it appears claim 14 has the same scope as claim 11 and is therefore indefinite. Clarification is requested.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-7, 10-11, 14/2, 14/11, 15, 18/1, 18/2, 19, 20 and 31-35 rejected under 35 U.S.C. 102(b) as being anticipated by Marsh (US 2076380). Marsh discloses an oil interceptor which includes an inlet baffle 21 – shaped very similar to applicant's inlet baffle, an outlet baffle 38 and an inclined ramp 35a which acts as a flow directing baffle. As noted by applicant, the heavies and the water are both withdrawn through outlet 40 while light wastes (oil) accumulate in an upper region to be periodically removed by a manual action. Applicant asserts Marsh is deficient by failing to disclose a flow directing outlet baffle extending across the container and there is no inlet on the outlet baffle having a height sufficient to suck away the heavy waste. Applicant asserts that wall structure 38 disclosed by Marsh '380 is "the rear end of the basin" etc. Applicant is correct in his reading of the Marsh reference. However, it seems to be irrelevant to the interpretation of the wall 38 defining a flow directing outlet baffle. If one subscribed to applicant's view then the outlet 40 is not part of the interceptor but an outlet of the "discharge column" 39. Clearly both structures are part of Marsh's interceptor and the wall 38 can be considered a flow directing outlet baffle. Marsh refers to a "sweeping action" of the water to remove the solids [pg. 2, col. 2, lines 15+]. As far as

the examiner can tell, this is the exact same flow effect which results in applicant's "sucking" action. As such, the functional language is met by the Marsh '380 reference. The accumulation of additional heavies is noted as is the plug 41. As one can reasonably understand from the Marsh '308 reference as a whole, some or most (if not all) heavy solids are removed by the sweeping action as described above. If however, some unusually heavy solids accumulate, they may be removed by the plug. In regard to claim 20, Marsh '308 has an inlet baffle 21 which is the air entrainment means as recited in claim 20.

5. Claims 1-7, 10-11, 14/2,14/11, 15, 18/2, 20 and 31-34 are rejected under 35 U.S.C. 102(b) as being anticipated by Hirshstein (US 2140582). Hirshstein '582 discloses a grease trap separator (as illustrated in figure 6 as modified by the figure 7 feature) with an inlet baffle 12, an outlet baffle 3, and a removable cover 10. Applicant alleges that Hirshstein '582 does not have a flow-directing outlet baffle as in the previous rejection rebuttal. This is not persuasive. It is noted that applicant's ramp 36 is actually part of the container 22. Further applicant has recited the ramp as a separate structure from the container. This is acceptable. The end wall of Hirshstein

'582 can be part of the container and the phrase "flow directing outlet baffle" can still read on the "end wall" as currently recited in the claims.

6. Claims 1-5, 11, 14/1, 14/2, 15, 18/1, 19 and 34-36 are rejected under 35 U.S.C. 102(b) as being anticipated by either one of Marsh (US 1496160) or Marsh (US 1438048). The Marsh patents ('160 or '048) above operate similar to the previous Marsh patent '380 except it is specifically noted that the flow effects of the "flow directing outlet baffle" 15 (in both Marsh patents '160 or '048) causes a "sucking" effect which is desirable in removing the settled solids [Marsh '048 at pg. 2, col. 1, lines 10-25 and Marsh '160 at pg. 2, col. 1, lines 32-57].

7. Claims 1-5, 11, 14/1, 14/2, 15, 18/1 and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Hirshstein (US 2284737). Hirshstein '737 operates similar to Hirshstein '582 but does not disclose a ramp.

***Claim Rejections - 35 USC § 103***

8. Claims 9, 12, 13, 14/9, 16, 17 and 18/17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Marsh '380 as applied to claims 1+ above, and further in view of McDermott (US 1121270). McDermott '270 discloses a grease trap (fig. 1-2 version) with an inlet baffle 28 and an

outlet baffle both having handles to remove the baffles to facilitate the periodic cleaning of the grease trap. The benefits of easy cleaning are axiomatic and to so modify the Marsh patent would have been obvious to one of ordinary skill in the art. The 103 rejection is not separately argued by applicant.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas M. Lithgow whose telephone number is 571-272-1162. The examiner can normally be reached on Mon. -Fri..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Duane Smith can be reached on 571-272-1166. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Thomas M. Lithgow  
Primary Examiner  
Art Unit 1724

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